

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

HAMID TABAK AND ABDELKRIM SBAI	§	CIVIL ACTION
Plaintiffs	§	
	§	
VS.	§	NO. 1:22-CV-81
	§	
JERRY BRIAN YATES AND SOUTHERN	§	
ELECTRIC CORP. OF MISSISSIPPI	§	
Defendants	§	JURY

**NOTICE OF REMOVAL OF DEFENDANT SOUTHERN
ELECTRIC CORPORATION OF MISSISSIPPI (INCORRECTLY
NAMED AS SOUTHERN ELECTRIC CORP. OF MISSISSIPPI)**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Defendant, SOUTHERN ELECTRIC CORPORATION OF MISSISSIPPI (INCORRECTLY NAMED AS SOUTHERN ELECTRIC CORP. OF MISSISSIPPI) (hereinafter referred to as “SOUTHERN”), in accordance with 28 U.S.C. §§ 1332, 1441, and 1446 *et seq.*, and files its Notice of Removal of the above-styled case from the 163rd Judicial District Court, Orange County, Texas, to the United States District Court for the Eastern District of Texas, Beaumont Division, based on diversity of citizenship of the parties.

Pursuant to the applicable federal statutes and the Local Rules for the Eastern District of Texas, Defendant attaches the following documents in support of this Notice of Removal:

1. Attachment A - State Court Petition;
2. Attachment B - Citation of Service and Notice of Service of Process on Southern Electric Corp. of Mississippi;
3. Attachment C - Defendant Southern Electric Corp. of Mississippi’s State Court Answer;
4. Attachment D - Civil Docket;
5. Attachment E - List of Parties and Counsel;

- 6. Attachment F - State Court Information Sheet; and,
- 7. Attachment G - Consent to Remove by Defendant, Jerry Brian Yates.

The documents attached hereto as Attachment “A” through “C” comprise true and correct copies of all executed process and pleadings served upon Defendant and of all documents filed in the state court action.

In filing this Notice of Removal, Defendant expressly reserves all other questions other than that of removal, for the purpose of further pleadings.

I. **STATE COURT ACTION**

Plaintiffs’ Original Petition, styled *Hamid Tabak and Abdelkrim Sbai vs. Jerry Brian Yates and Southern Electric Corp. of Mississippi*, Cause No. 220019-C, was filed on January 13, 2022, in Orange County, Texas, and assigned to the 163rd Judicial District Court, Orange, Texas located at 801 W. Division Street, Suite 106, Orange TX 77630.

II. **PLAINTIFFS’ ALLEGATIONS**

Plaintiffs allege Defendant Jerry Brian Yates (YATES) was driving eastbound a truck owned by Defendant Southern Electric Corp. of Mississippi (SOUTHERN) on Interstate 10 near the 877 mile marker in Orange County, Texas when he allegedly failed to maintain a single lane, crossed into the shoulder, damaging a tire, and lost control of his vehicle. *See* Exhibit “A” – Plaintiff’s Original Petition, at § V. Plaintiffs claim that “*Plaintiff HAMID TABAK suffered severe personal injuries and damages.*” *Id.*

Plaintiff TABAK seek past and future damages for physical pain, mental anguish, medical expenses, physical impairment and inability to do those tasks and services that Plaintiff

ordinarily would have been able to perform, physical disfigurement, and lost earnings allegedly as a result of YATES's negligence. See *Id.* at IX and

Plaintiff SBAI alleges property damages, loss of use damages, and damages for loss of earnings for being unable to use his damaged vehicle allegedly as a result of YATES's negligence. See *Id.* at IX and XX.

Plaintiffs further contend that SOUTHERN ELECTRIC CORPORATION OF MISSISSIPPI (INCORRECTLY NAMED AS SOUTHERN ELECTRIC CORP. OF MISSISSIPPI) (hereinafter referred to as "SOUTHERN") committed acts and/or omissions of negligent entrustment, training, and supervision and was also responsible for the acts and/or omissions of YATES under the theory of negligent entrustment. See *Id.* at VII.

III. **PARTIES - DIVERSITY OF CITIZENSHIP**

Plaintiff HAMID TABAK is a resident of Houston, Harris County, Texas. See *Id.* at III.

Plaintiff ABDELKRIM SBAI is a resident of Grand Prairie, Dallas County, Texas. See *Id.*

Defendant, JERRY BRIAN YATES is a citizen of Covington County, Mississippi. See *Id.* Defendant Yates has not been properly served in this case.

Defendant, SOUTHERN ELECTRIC CORPORATION OF MISSISSIPPI (INCORRECTLY NAMED AS SOUTHERN ELECTRIC CORP. OF MISSISSIPPI) is a Mississippi corporation formed in the State of Mississippi. The principal place of business of SOUTHERN ELECTRIC CORPORATION OF MISSISSIPPI is Flowood, Mississippi.

Accordingly, there is complete diversity of citizenship between Plaintiffs and the Defendants. 28 U.S.C. §§ 1332, 1441.

IV.

AMOUNT IN CONTROVERSY

The state court action is one over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332 because it is a civil action wherein Plaintiffs allege that the matter in controversy exceeds the minimum jurisdictional limits of this Court exclusive of interest and costs and because the action is between citizens of different states.

Plaintiffs' Original Petition in state court seeks monetary relief over "\$250,000 but not more than \$1,000,000." *See Id.* at IV. In addition, each Plaintiff individually seeks past and future (ongoing) damages). *See Id.* at IX and XX. Thus the alleged amount in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs. Accordingly, Defendant has established that Plaintiffs' alleged amount in controversy is sufficient to confer federal jurisdiction in this Court. For the reasons stated above, this Court has original jurisdiction of this case pursuant to 28 U.S.C. §1332(a).

V. **REMOVAL IS TIMELY**

Removal is timely. Defendant, SOUTHERN ELECTRIC CORPORATION OF MISSISSIPPI (INCORRECTLY NAMED AS SOUTHERN ELECTRIC CORP. OF MISSISSIPPI) received Plaintiff's Original Petition on February 5, 2022. Defendant Yates has not been properly served. He was improperly served through use of an incorrect address. As such, service on Defendant has been less than 30 days from filing this Notice of Removal. *See* 28 U.S.C. § 1446(b).

VI. **VENUE**

This is a statutorily proper venue under the provisions of 28 U.S.C. § 1441(a) because the district and division embrace the place where the removed action has been pending.

VII.
FILING WITH STATE COURT AND NOTICE TO PLAINTIFFS

Upon filing of this Notice of Removal of the cause, Defendant, SOUTHERN ELECTRIC CORPORATION OF MISSISSIPPI (INCORRECTLY NAMED AS SOUTHERN ELECTRIC CORP. OF MISSISSIPPI) gave written notice of the filing to the Plaintiffs through Plaintiffs' counsel as required by law. A copy of this Notice is also being filed with the 163rd Judicial District Court of Orange County, Texas, where this cause was originally filed. A copy of all processes, pleadings, and orders has been filed separately with this Court pursuant to 28 U.S.C. § 1446(a).

VIII.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant, SOUTHERN ELECTRIC CORPORATION OF MISSISSIPPI (INCORRECTLY NAMED AS SOUTHERN ELECTRIC CORP. OF MISSISSIPPI) prays that the United States District Court for the Eastern District of Texas, Beaumont Division, accept this Notice of Removal and assume jurisdiction of this matter and issue any orders and processes necessary to bring Plaintiffs, HAMID TABAK and ABDELKRIM SBAI and Defendant, SOUTHERN ELECTRIC CORPORATION OF MISSISSIPPI (INCORRECTLY NAMED AS SOUTHERN ELECTRIC CORP. OF MISSISSIPPI) before it, and to effectively prevent further proceedings of this case in the 163rd Judicial District Court of Orange County, Texas.

Respectfully submitted,

MEHAFFY WEBER, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to opposing counsel of record on this 25th day of February, 2022, in accordance with the Federal Rules of Civil Procedure by certified mail, addressed as follows:

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